



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

August 10, 2006

S. 3709

A bill to exempt from certain requirements of the Atomic Energy Act of 1954 United States Exports of nuclear materials, equipment, and technology to India, and to implement the United States Additional Protocol

*As reported by the Senate Committee on Foreign Relations
on July 20, 2006*

SUMMARY

S. 3709 would exempt India from the current-law prohibition on the transfer of nuclear materials and technology to countries that are not signatories to the Treaty on the Non-Proliferation of Nuclear Weapons. In addition, S. 3709 would implement the obligations of the United States under the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States of America (hereafter called the Additional Protocol).

CBO estimates that implementing S. 3709 would cost \$17 million in 2007 and \$72 million over the 2007-2011 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or receipts.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that because title II of this bill would implement the Additional Protocol, it falls within that exclusion. Other provisions of the bill contain no intergovernmental or private-sector mandates and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 3709 is shown in the following table. The costs would fall within budget functions 050 (national defense), 270 (energy), and 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	23	13	13	13	13
Estimated Outlays	17	15	14	13	13

BASIS OF ESTIMATE

CBO assumes that the bill will be enacted near the start of fiscal year 2007 and that the estimated amounts will be appropriated each year.

U.S. Additional Protocol Implementation (title II)

Enacting title II of S. 3709 would enable government agencies to implement the Additional Protocol. Specifically, the bill would:

- Authorize government agencies to conduct vulnerability assessments at government and commercial facilities,
- Designate government agencies to provide outreach programs to the commercial facilities and to issue regulations in order to implement the provisions of the Additional Protocol,
- Authorize the federal government to seek search warrants when the owner of a commercial facility refuses to give consent for inspection by the IAEA, and
- Set guidelines for the IAEA to conduct environmental sampling at government and commercial facilities.

CBO expects that most of the assessments would be performed by the Department of Defense (DoD) and the Department of Energy (DOE) at universities, fuel-fabrication plants, and commercial manufacturing sites currently working on DoD projects, as well as DOE labs. Although DoD and DOE already have the authority to perform such assessments, CBO believes that those agencies will not perform these assessments unless S. 2489 is enacted. Based on information from those two departments, CBO estimates that the Department of Defense would conduct about 50 assessments a year, while the Department of Energy would conduct about 50 assessments in 2007 and about 10 assessments each year thereafter, at an average cost of about \$200,000 per assessment. Accordingly, CBO estimates that conducting vulnerability assessments would cost \$15 million in 2007 and \$65 million over the 2007-2011 period, assuming appropriation of the estimated amounts.

CBO expects that most of the outreach efforts would be performed by the Department of Commerce (DOC). DOC is developing a new database to support the reporting requirements of the Additional Protocol. The department also would conduct outreach, training, and inspection support programs at commercial facilities. CBO anticipates that the Nuclear Regulatory Commission's (NRC's) staff would revise regulations to include the new requirements for implementing the Additional Protocol and would prepare guidance documents for its commercial licensees to prepare for the IAEA inspections. Under current law, 90 percent of the additional costs for the NRC would be covered by fees paid by operators of nuclear power plants. Based on information provided by DOC and NRC, CBO estimates that the net cost of these efforts would be \$2 million in 2007 and \$7 million over the 2007-2011 period.

CBO expects that most facilities would cooperate with the inspections and that the costs to seek and execute warrants required under the bill would be insignificant. Also, based on information from the State Department, CBO believes that the IAEA would not be able to conduct environmental sampling at government or commercial facilities because the United States, as a lawful nuclear weapons state, would forbid such sampling under existing treaty rights. Thus, CBO estimates that the U.S. government would incur no costs related to such sampling.

United States-India Peaceful Atomic Energy Cooperation (title I)

Under title I of this bill, the United States could transfer nuclear material and technology to India, subject to an agreement between the two countries, if the President certifies that India meets certain conditions. Those conditions would require India to:

- Provide a credible plan to separate civilian and military nuclear facilities,
- Conclude an agreement with the International Atomic Energy Agency,
- Work actively with the United States to conclude a multilateral treaty to stop the production of fissile materials for use in nuclear weapons or other nuclear explosive devices,
- Support efforts of the international community to prevent proliferation of nuclear enrichment and reprocessing technology, and
- Gain the consensus support of the Nuclear Suppliers Group, an organization of countries with nuclear capabilities, for trade in items covered by its guidelines.

Additionally, in the event an agreement is reached for nuclear cooperation between India and the United States, the bill would require the President to submit a report detailing the basis for determining that India meets all the necessary requirements and to inform the appropriate committees of any significant nuclear activities of India. The bill also would require that the agreement be approved by a joint resolution of the two Houses of Congress that has been enacted into law. And finally, the bill would require that the exemption from current-law prohibition would cease to be effective if India detonates a nuclear explosive device after the date of the enactment of this bill.

CBO estimates that implementing title I of this bill would have no significant impact on the federal budget.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that because title II of this bill would implement the Additional Protocol, it falls within that exclusion. Other provisions of the bill contain no intergovernmental or private-sector mandates and would not affect the budgets of state, local, or tribal governments.

PREVIOUS CBO ESTIMATE

On August 10, 2006, CBO transmitted a cost estimate for S. 2489, the U.S. Additional Protocol Implementation Act. That bill contains provisions that are identical to those in title II of S. 3709, and the estimated costs are the same in both estimates.

On July 13, 2006, CBO transmitted a cost estimate for H.R. 5682, the United States and India Nuclear Cooperation Promotion Act of 2006, as ordered reported by the House Committee on International Relations on June 27, 2006. That bill contains provisions that are very similar to those in title I of S. 3709, and the estimated costs are the same in both estimates.

At the request of the Senate Committee on Foreign Relations, CBO prepared an analysis of the costs associated with ratifying the Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency Regarding Safeguards in the United States (Treaty Document 107-7). In that analysis, dated March 5, 2004, CBO estimated that one-time costs to the U.S. government for implementing the Additional Protocol would total between \$20 million and \$30 million, and recurring costs would total between \$10 million and \$15 million a year, assuming appropriation of the estimated amounts. Those estimated costs are similar to the costs described in this estimate.

ESTIMATE PREPARED BY:

Federal Costs: Raymond J. Hall and Sam Papenfuss

Impact on State, Local, and Tribal Governments: Melissa Merrell

Impact on the Private Sector: Tyler Kruzich

ESTIMATE APPROVED BY:

Robert A. Sunshine

Assistant Director for Budget Analysis